

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KEVIN S. CLAPP)	
)	
)	
Plaintiff,)	
)	
v.)	
)	C.A. 1:18-cv-10426-ADB
MARK COHEN, JOHN FANNING,)	
JOHN FANNING, VINCENT NOE,)	
BRUCE TOBIN, BRIAN TULLY,)	
SCOTT KEARNS, BRIAN BROOKS,)	
AND JAMES FLANAGAN)	
)	
Defendants.)	

DEFENDANT JAMES FLANAGAN’S MOTION TO DISMISS

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendant James Flanagan moves to dismiss *pro se* plaintiff Kevin S. Clapp’s claim against him in Plaintiff’s Amended Complaint for failure to state any claim upon which relief can be granted. Plaintiff asserts a civil rights claim under 42 U.S.C. §1983 because he quarrels with Flanagan, the First Assistant Clerk Magistrate of the Stoughton District Court in Massachusetts, having signed a warrant for Plaintiff’s arrest. Assistant Clerk Flanagan, though, is entitled to quasi-judicial immunity and qualified immunity. Plaintiff also fails to plausibly allege that he was deprived of a federally protected right pursuant to §1983. For the reasons stated in the accompanying Memorandum of Law, Assistant Clerk Flanagan respectfully requests that the Court grant this Motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Assistant Clerk Flanagan respectfully requests oral argument on this Motion.

Respectfully submitted,

Defendant,
JAMES FLANAGAN
By his Attorneys

MAURA HEALEY
ATTORNEY GENERAL

/s/ Evelyn Y. Tang
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Date: August 9, 2019

CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I hereby certify that the parties have previously conferred with respect to the relief requested in this Motion and have attempted in good faith to resolve or narrow the issue but have been unable to do so.

CERTIFICATE OF SERVICE

I, Evelyn Y. Tang, Assistant Attorney General, hereby certify that Defendant James Flanagan's Motion to Dismiss and Proposed Order filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and a true copy will be sent to those indicated as non-registered participants on August 9, 2019 via USPS First Class mail.

/s/ Evelyn Y. Tang
Evelyn Y. Tang
Assistant Attorney General